

CHAPTER III—OFFICE OF CHILD SUPPORT ENFORCEMENT (CHILD SUPPORT ENFORCEMENT PROGRAM), ADMINISTRATION FOR CHILDREN AND FAMILIES, DEPARTMENT OF HEALTH AND HUMAN SERVICES

EDITORIAL NOTE: Nomenclature changes to chapter III appear at 66 FR 39452, July 31, 2001.

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PART 300 [RESERVED]

PART 301—STATE PLAN APPROVAL AND GRANT PROCEDURES

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AUTHORITY: 42 U.S.C. 651 through 658, 660, 664, 666, 667, 1301, and 1302.

SOURCE: 40 FR 27157, June 26, 1975, unless otherwise noted.

§301.0 Scope and applicability of this part.

This part deals with the administration of title IV-D of the Social Security Act by the Federal Government including actions on the State plan and amendments thereto and review of such actions; grants under the approved plan; review and audit of State and local expenditures; and reconsideration of disallowances of expenditures for Federal financial participation.

§301.1 General definitions.

When used in this chapter, unless the context otherwise indicates:

Act means the Social Security Act, and the title referred to is title IV-D of that Act.

Applicable matching rate means the rate of Federal funding of State IV-D programs' administrative costs for the appropriate fiscal year. The applicable matching rate for FY 1990 and thereafter is 66 percent.

Assigned support obligation means, unless otherwise specified, any support obligation which has been assigned to the State under section 408(a)(3) of the Act or section 471(a)(17) of the Act, or any medical support obligation or payment for medical care from any third party which has been assigned to the State under 42 CFR 433.146.

Assignment means, unless otherwise specified, any assignment of rights to

support under section 408(a)(3) of the Act or section 471(a)(17) of the Act, or any assignment of rights to medical support and to payment for medical care from any third party under 42 CFR 433.146.

Birthing hospital means a hospital that has an obstetric care unit or provides obstetric services, or a birthing center associated with a hospital. A birthing center is a facility outside a hospital that provides maternity services.

Central registry means a single unit or office within the State IV-D agency which receives, disseminates and has oversight responsibility for processing incoming interstate IV-D cases, including UIFSA petitions and requests for wage withholding in IV-D cases and, at the option of the State, intrastate IV-D cases.

Department means the Department of Health and Human Services.

Director means the Director, Office of Child Support Enforcement, who is the Secretary's designee to administer the Child Support Enforcement program under title IV-D.

Federal PLS means the Parent Locator Service operated by the Office of Child Support Enforcement pursuant to section 452(a)(9) of the Act.

IV-D Agency means the single and separate organizational unit in the State that has the responsibility for administering or supervising the administration of the State plan under title IV-D of the Act.

Medicaid means medical assistance provided under a State plan approved under title XIX of the Act.

Medicaid agency means the single State agency that has the responsibility for the administration of, or supervising the administration of, the State plan under title XIX of the Act.

Non-IV-A Medicaid recipient means any individual who has been determined eligible for or is receiving Medicaid under title XIX of the Act but is not receiving, nor deemed to be receiving, title IV-A under title IV-A of the Act.

Office means the Office of Child Support Enforcement which is the separate organizational unit within the Department with the responsibility for the

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administration of the program under this title.

Overdue support means a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child, which is owed to or on behalf of the child, or for the noncustodial parent's spouse (or former spouse) with whom the child is living, but only if a support obligation has been established with respect to the spouse and the support obligation established with respect to the child is being enforced under State's IV-D plan. At the option of the State, overdue support may include amounts which otherwise meet the definition in the previous sentence but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors applies independently to the procedures required under § 302.70 of this chapter.

Past-due support means the amount of support determined under a court order or an order of an administrative process established under State law for support and maintenance of a child or of a child and the parent with whom the child is living, which has not been paid. For purposes of referral for Federal income tax refund offset of support due an individual who is receiving services under § 302.33 of this chapter, *past-due support* means support owed to or on behalf of a qualified child, or a qualified child and the parent with whom the child is living if the same support order includes support for the child and the parent.

Political subdivision means a legal entity of the State as defined by the State, including a legal entity of the political subdivision so defined, such as a Prosecuting or District Attorney or a Friend of the Court.

Procedures means a written set of instructions which describe in detail the step by step actions to be taken by child support enforcement personnel in the performance of a specific function under the State's IV-D plan. The IV-D agency may issue general instructions on one or more functions, and delegate responsibility for the detailed procedures to the office, agency, or political

subdivision actually performing the function.

Qualified child means a child who is a minor or who, while a minor, was determined to be disabled under title II or XVI of the Act, and for whom a support order is in effect.

Regional Office and *Central Office* refer to the Regional Offices and the Central Office of the Office of Child Support Enforcement, respectively.

Secretary means the Secretary of Health and Human Services.

Spousal support means a legally enforceable obligation assessed against an individual for the support of a spouse or former spouse who is living with a child or children for whom the individual also owes support.

State means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam and American Samoa.

The *State plan* means the State plan for child and spousal support under section 454 of the Act.

State PLS means the service established by the IV-D agency pursuant to section 454(8) of the Act to locate parents.

[47 FR 57280, Dec. 23, 1982, as amended at 50 FR 19647, May 9, 1985; 50 FR 23958, June 7, 1985; 50 FR 31719, Aug. 6, 1985; 53 FR 5256, Feb. 22, 1988; 54 FR 32308, Aug. 4, 1989; 56 FR 8002, Feb. 26, 1991; 57 FR 30429, July 9, 1992; 58 FR 41437, Aug. 4, 1993; 59 FR 66249, Dec. 23, 1994; 61 FR 67240, Dec. 20, 1996; 64 FR 6247, Feb. 9, 1999; 68 FR 25303, May 12, 2003]

§ 301.10 State plan.

The State plan is a comprehensive statement submitted by the IV-D agency describing the nature and scope of its program and giving assurance that it will be administered in conformity with the specific requirements stipulated in title IV-D, the regulations in Subtitle A and this chapter of this title, and other applicable official issuances of the Department. The State plan contains all information necessary for the Office to determine whether the plan can be approved, as a basis for Federal financial participation in the State program.

§ 301.11 State plan; format.

The State plan must be submitted to the Office in the format and containing

the information prescribed by the Office, and within time limits set in implementing instructions issued by the Office. Such time limits will be adequate for proper preparation of plans and submittal in accordance with the requirements for State Governors' review (see § 301.12 of this chapter).

(Approved by the Office of Management and Budget under control number 0960-0253)

[40 FR 27147, June 26, 1975, as amended at 51 FR 37730, Oct. 24, 1986]

§ 301.12 Submittal of State plan for Governor's review.

The State plan must be submitted to the State Governor for his review and comments, and the State plan must provide that the Governor will be given opportunity to review State plan amendments and long-range program planning projections or other periodic reports thereon. This requirement does not apply to periodic statistical or budget and other fiscal reports. Under this requirement, the Office of the Governor will be afforded a specified period in which to review the material. Any comments made will be transmitted to the Office with the documents.

(Approved by the Office of Management and Budget under control number 0960-0253)

[40 FR 27147, June 26, 1975, as amended at 51 FR 37730, Oct. 24, 1986]

§ 301.13 Approval of State plans and amendments.

The State plan consists of written documents furnished by the State to cover its Child Support Enforcement program under title IV-D of the Act. After approval of the original plan by the Office, all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are required to be submitted currently so that the Office may determine whether the plan continues to meet Federal requirements and policies.

(a) *Submittal.* State plans and revisions of the plans are submitted first to the State governor or his designee for review in accordance with § 301.12, and then to the regional office. The States are encouraged to obtain consultation of the regional staff when a plan is in process of preparation or revision.

(b) *Review.* The Office of Child Support Enforcement in the regional offices is responsible for review of State plans and amendments. It also initiates discussion with the IV-D agency on clarification of significant aspects of the plan which come to its attention in the course of this review. State plan material on which the regional staff has questions concerning the application of Federal policy is referred with recommendations as required to the Office of Child Support Enforcement in the central office for technical assistance. Comments and suggestions, including those of consultants in specified areas, may be prepared by the central office for use by the regional staff in negotiations with the IV-D agency.

(c) *Action.* The Regional Office exercises delegated authority to take affirmative action on the State plan and amendments thereto on the basis of policy statements or precedents previously approved by the Director. The Director retains authority for determining that proposed plan material is not approvable, or that a previously approved plan no longer meets the requirements for approval, except that a final determination of disapproval may not be made without prior consultation and discussion by the Director with the Secretary. The Regional Office or the Director formally notifies the IV-D agency of the actions taken on the State plan or revisions thereto.

(d) *Basis for approval.* Determinations as to whether the State plan (including plan amendments and administrative practice under the plan) originally meets or continues to meet the requirements for approval are based on relevant Federal statutes and regulations. Guidelines are furnished to assist in the interpretation of the regulations.

(e) *Prompt approval of the State plan.* The determination as to whether the State plan submitted for approval conforms to the requirements for approval under the Act and regulations issued pursuant thereto shall be made promptly and not later than the 90th day following the date on which the plan submittal is received in the regional office, unless the Regional Office has secured from the IV-D agency

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a written agreement to extend that period.

(f) *Prompt approval of plan amendments.* Any amendment of an approved State plan may, at the option of the State, be considered as a submission of a new State plan. If the State requests that such amendments be so considered, the determination as to its conformity with the requirements for approval shall be made promptly and not later than the 90th day following the date on which such a request is received in the Regional Office with respect to an amendment that has been received in such office, unless the Regional Commissioner has secured from the State agency a written agreement to extend that period.

(g) *Effective date.* The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted.

(Approved by the Office of Management and Budget under control number 0960–0253)

[40 FR 27147, June 26, 1975, as amended at 51 FR 37730, Oct. 24, 1986]

§ 301.14 Administrative review of certain administrative decisions.

Any State dissatisfied with a determination of the Director pursuant to § 301.13 (e) or (f) with respect to any plan or amendment may, within 60 days after the date of receipt of notification of such determination, file a petition with the Regional Office asking the Director for reconsideration of the issue of whether such plan or amendment conforms to the requirements for approval under the Act and pertinent Federal requirements. Within 30 days after receipt of such a petition, the Director shall notify the State of the time and place at which the hearing for the purpose of reconsidering such issue will be held. Such hearing shall be held not less than 30 days nor more than 60 days after the date notice of such hearing is furnished to the State, unless the Director and the State agree in writing on another time. The hearing procedures contained in 45 CFR part 213 applicable to § 201.4 of this title shall apply to reconsiderations brought under this section. A determination affirming, modifying, or reversing the Director's original decision will be made within 60 days of the conclusion

of the hearing. Action pursuant to an initial determination by the Director described in such § 301.1 (e) or (f) that a plan or amendment is not approvable shall not be stayed pending the reconsideration, but in the event that the Director subsequently determines that his original decision was incorrect he shall certify restitution forthwith in a lump sum of any funds incorrectly withheld or otherwise denied.

§ 301.15 Grants.

To States with approved plans, a grant is made each quarter for expenditures under the plan for the administration of the Child Support Enforcement program. The determination as to the amount of a grant to be made to a State is based upon documents submitted by the IV-D agency containing information required under the Act and such other pertinent facts as may be found necessary.

(a) *Form and manner of submittal—*

(1) *Time and place.* An estimate for a grant for each quarterly period must be forwarded to the Regional Office 45 days prior to the period of the estimate. It includes a certification of State funds and a justification statement in support of the estimate. A statement of quarterly expenditures and any necessary supporting schedules must be forwarded to the Department of Health and Human Services, Administration for Children and Families, Office of Program Support, Division of Formula, Entitlement and Block Grants, 370 L'Enfant Promenade, S.W., Washington, DC 20447, not later than 30 days after the end of the quarter.

(2) *Description of forms.* “State Agency Expenditure Projection—Quarterly Projection by Program” represents the IV-D agency's estimate of the total amount and the Federal share of expenditures for the administration of the title IV-D program for the quarter. From this estimate the State and Federal shares of the total expenditures are computed. The State's computed share of total estimated expenditures is the amount of State and local funds necessary for the quarter. The Federal share is the basis for the funds to be advanced for the quarter. The agency

must also certify, on this form or otherwise, the amount of State funds (exclusive of any balance of advances received from the Federal Government) actually on hand and available for expenditure; this certification must be signed by the executive officer of the IV-D agency submitting the estimate or a person officially designated by him, or by a fiscal officer of the State if required by State law or regulation. (A form "Certificate of Availability of State Funds for Assistance and Administration during Quarter" is available for submitting this information, but its use is optional.) If the amount of State funds (or State and local funds if localities participate in the program), shown as available for expenditures is not sufficient to cover the State's proportionate share of the amount estimated to be expended, the certification must contain a statement showing the source from which the amount of the deficiency is expected to be derived and the time when this amount is expected to be made available.

(3) The IV-D agency must also submit a quarterly statement of expenditures for the title IV-D program. This is an accounting statement of the disposition of the Federal funds granted for past periods and provides the basis for making the adjustments necessary when the State's estimate for any prior quarter was greater or less than the amount the State actually expended in that quarter. The statement of expenditures also shows the share of the Federal Government in any recoupment, from whatever source, of expenditures claimed in any prior period, and also in expenditures not properly subject to Federal financial participation which are acknowledged by the IV-D agency or have been revealed in the course of an audit.

(b) *Review.* The State's estimate is analyzed by the regional office and is forwarded with recommendations as required to the central office. The central office reviews the State's estimate, other relevant information, and any adjustments to be made for prior periods, and computes the grant.

(c) *Grant award.* The grant award computation form shows the amount of the estimate for the ensuing quarter, and the amounts by which the estimate

is reduced or increased because of over- or under-estimate for the prior quarter and for other adjustments. This form is transmitted to the IV-D agency to draw the amount of the grant award as needed, to meet the Federal share of disbursements. The draw is through a commercial bank and the Federal Reserve system against a continuing letter of credit certified to the Secretary of the Treasury in favor of the State payee. A notice of the amount of the grant award is sent to the State Central Information Reception Agency in accord with section 201 of the Intergovernmental Cooperation Act of 1968.

(d) *Letter of credit payment system.* The letter of credit system for payment of advances of Federal funds was established pursuant to Treasury Department regulations. (Circular No. 1075), published in the FEDERAL REGISTER on July 11, 1967 (32 FR 10201). The HHS "Instructions to Recipient Organizations for Use of Letter of Credit" was transmitted to all grantees by memorandum from the Assistant Secretary-Comptroller on January 15, 1968.

(e) *General administrative requirements.* With the following exceptions, the provisions of part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants made to States under this part:

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45 CFR 74.23 Cost Sharing or Matching.

45 CFR 74.52 Financial Reporting.

(Approved by the Office of Management and Budget under control numbers 0960-0239 and 0960-0235)

[40 FR 27147, June 26, 1975, as amended at 51 FR 37731, Oct. 24, 1986; 61 FR 67240, Dec. 20, 1996]

§ 301.16 Withholding of advance funds for not reporting.

(a) No advance for any quarter will be made unless full and complete reports on expenditures and collections, as required by §§ 301.15 and 302.15 of this chapter, respectively, have been submitted to the Office by the IV-D agency for all quarters with the exception of the two quarters immediately preceding the quarter for which the advance is to be made.

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(b) For purposes of this section, a report is full and complete if:

(1) All line items of information are reported in accordance with OCSE instructions; and

(2) The report contains all applicable information available to the State and appropriate for inclusion in the report for the quarter being reported and prior quarters.

(Collection reporting form approved by the Office of Management and Budget under control number 0960–0238 and expenditure reporting form approved under control number 0960–0235)

[47 FR 8570, Mar. 1, 1982]

PART 302—STATE PLAN REQUIREMENTS

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SOURCE: 40 FR 27159, June 26, 1975, unless otherwise noted.

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§ 302.0 Scope of this part.

This part defines the State plan provisions required for an approved plan under title IV–D of the Act.

§ 302.1 Definitions.

The definitions found in § 301.1 of this chapter also are applicable to this part.

§ 302.10 Statewide operations.

The State plan shall provide that:

(a) It will be in operation on a statewide basis in accordance with equitable standards for administration that are mandatory throughout the State;

(b) If administered by a political subdivision of the State, the plan will be mandatory on such political subdivision;

(c) The IV–D agency will assure that the plan is continuously in operation in all appropriate offices or agencies through:

(1) Methods for informing staff of State policies, standards, procedures and instructions; and

(2) Regular planned examination and evaluation of operations in local offices by regularly assigned State staff, including regular visits by such staff; and through reports, controls, or other necessary methods.

§ 302.11 State financial participation.

The State plan shall provide that the State will participate financially in the program.

§ 302.12 Single and separate organizational unit.

(a) The State plan shall provide for the establishment or designation of a